

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

CONTINENTAL CASUALTY COMPANY, §

Plaintiff,

vs.

**ALABAMA EMERGENCY ROOM
ADMINISTRATIVE SERVICES, P.C.,**

Defendant.

CIVIL ACTION NO.:

2:07-CV-221-WHA

**JOINT MOTION TO EXTEND DEADLINES
AND TO CONTINUE TRIAL**

COME NOW Plaintiff Continental Casualty Company (“Continental Casualty”) and Defendant Alabama Emergency Room Administrative Services, P.C. (“AERAS”), and respectfully move this Honorable Court extend the deadlines outlined in the Court’s May 25, 2007 Scheduling Order and continue the trial from its present setting of March 24, 2008. As grounds for this Motion, the parties state as follows:

1. This is an action for declaratory judgment regarding the recovery of premium assessed on a workers’ compensation policy issued by Plaintiff Continental Casualty to Defendant Alabama Emergency Room Administrative Services, P.C. for the policy period of May 3, 2005 to May 3, 2006.
2. The central issue in this litigation is whether certain physicians of AERAS qualified as “employees” for purposes of workers’ compensation insurance and, therefore, should be included in the assessment of the premium for the workers’ compensation policy.

3. Due to the unique nature of this action, the parties agree that the issues for decision in this matter can likely be decided on briefs and without the necessity of a trial.

4. Pursuant to this Court's Scheduling Order, the following deadlines and settings remain:

- a. All discovery to be completed by November 1, 2007;
- b. Dispositive motions to be filed no later than November 21, 2007;
- c. Pretrial conference set for February 20, 2008;
- d. Exchange witness, exhibit, and deposition designation lists by February 22, 2008; and
- e. Non-jury trial set for March 24, 2008.

5. The parties have endeavored to complete discovery within the deadline set forth in the Court's Scheduling Order. In an effort to discover all facts and obtain the testimony necessary for the parties to submit this matter to the Court on briefs, the parties have exchanged written discovery, initiated discovery to non-parties, and begun taking depositions. The parties have identified additional witnesses whose depositions will be necessary. However, the parties have been unable to schedule the depositions of the witnesses prior to the present discovery deadline.

6. Additionally, Plaintiff Continental Casualty issued several document subpoenas to non-parties to which responses are outstanding. Once the documents are received and/or the testimony of the witnesses has been secured additional written discovery may become necessary.

7. The parties respectfully request that this Court extend all remaining deadlines in this matter by 120 days to permit the parties to conclude discovery and submit the matter on briefs. The

parties further request that the Court continue the pretrial conference and trial from the presently-scheduled dates.

Respectfully submitted,

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